

REMARKS

The application has been carefully reviewed in light of the Office Action dated July 16, 2008. Claims 1 and 4 to 21 are in the application, of which Claims 15 to 21 were withdrawn from consideration. Claim 1 is the sole independent claim under consideration. Claims 2 and 3 have been cancelled without prejudice. Claims 1, 4, 6, 8, 9, 11, and 12 have been amended herein. Reconsideration and further examination are respectfully requested.

Claims 8, 11, and 12 were objected to for alleged informalities. Applicant respectfully submits that the objections have been obviated by the amendments made to Claims 8, 11, and 12.

Claims 3, 6 to 8, and 11 were rejected under 35 U.S.C. § 112, second paragraph. The rejections are respectfully traversed.

With respect to Claims 3, 7, and 8, the Office Action alleged that the claims contain functional language that renders the claims indefinite. However, Applicant notes that there is nothing inherently wrong with defining some part of an invention in functional terms. See MPEP § 2173.05(g).

With respect to Claims 6 and 11, Applicant respectfully submits that the rejections have been obviated by the amendments made to those claims.

Claims 1 to 4, 6, 10 to 12, and 14 were rejected under 35 U.S.C. § 102(b) over U.S. Publication No. 2002/0004204 (O'Keefe). Claims 1 to 6, 9, 10, 12, and 14 were rejected under 35 U.S.C. § 102(b) over U.S. Publication No. 2003/0040107 (Hirota). Claims 1, 5, and 9 were rejected under 35 U.S.C. § 103(a) over O'Keefe in view of Hirota. Claims 1 and 6 to 8 were rejected under 35 U.S.C. § 103(a) over O'Keefe in view of U.S.

Publication No. 2002/0106355 (Roesl). Claims 1, 2, and 11 were rejected under 35 U.S.C. § 103(a) over O'Keefe in view of U.S. Publication No. 2002/0039742 (Iwaki). Claims 1 and 13 were rejected under 35 U.S.C. § 103(a) over O'Keefe in view of U.S. Publication No. 2002/0147330 (Yamamoto). Claims 1 and 6 to 8 were rejected under 35 U.S.C. § 103(a) over Hirota in view of Roesl. Claims 1, 2, and 11 were rejected under 35 U.S.C. § 103(a) over Hirota in view of Iwaki. Claims 1 and 13 were rejected under 35 U.S.C. § 103(a) over Hirota in view of Yamamoto. The rejections are respectfully traversed.

Claim 1 recites, *inter alia*, (i) said reaction region comprising two or more independent areas separated from each other, and (ii) the two or more areas immobilize different amounts of probes depending on the target substances to be reacted with the probes immobilized in the areas.

None of O'Keefe, Hirota, Roesl, Iwaki, and Yamamoto, even in the proposed combinations, assuming, *arguendo*, that such could be combined, is seen to disclose or suggest at least the above-discussed features.

In its rejection of cancelled Claims 2 and 3, the Office Action dismissed alleged functional language as a recitation of intended use. Applicant respectfully submits that this language is not a recitation of intended use. Functional language defines an element by what it does rather than what it is and is perfectly permissible claim language that cannot be ignored. See MPEP § 2173.05(g) and § 2114. Accordingly, Applicant respectfully submits that any functional language recited in amended Claim 1 should be given full patentable weight in claim analysis.

The dependent claims under consideration are also submitted to be patentable because they set forth additional aspects of the present invention and are

dependent from the independent claim discussed above. Therefore, separate and individual consideration of each of these dependent claims is respectfully requested.

The application is believed to be in condition for allowance, and a Notice of Allowance is respectfully requested.

No fees are believed due; however, should it be determined that additional fees are required, the Director is hereby authorized to charge such fees to Deposit Account 06-1205.

Applicant's undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should be directed to our address given below.

Respectfully submitted,

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